

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
EASTERN DIVISION  
Civil Action No. 4:03-cv-00031-H

DAVID C. ANDERSON and SAMUEL )  
PULLEN, on behalf of themselves )  
and all others similarly situated, )  
 )  
Plaintiffs, )  
 )  
v. )  
 )  
SARA LEE CORPORATION, )  
 )  
Defendant. )

**ORDER APPROVING  
COLLECTIVE ACTION  
SETTLEMENT**

This matter is before the Court on the parties' Joint Motion to Approve Settlement of this FLSA collective action. [DE# 198]. The Court has thoroughly reviewed the parties' proposed Settlement Agreement and Release of Claims ("Settlement Agreement") and carefully considered the Plaintiffs' claims, the documents of record and the procedural history of these actions, as well as the Court's prior rulings therein. In view of the record and the history of litigation in the case, the parties' arguments and various papers submitted in support of the settlement, and the Court's review of the Settlement Agreement, the Court hereby ORDERS that the parties Settlement Agreement is APPROVED as set forth herein.

1. The Court finds that the settlement is the product of contested litigation involving a *bona fide* dispute between the parties. The Court further finds the settlement was negotiated at arms length by the parties and is a fair and reasonable resolution of the claims asserted and released by the Plaintiffs, in light of the parties' respective prospects for success (or failure) were the case to proceed to trial on the merits.

2. The Court further approves the Service Awards for certain Plaintiffs as set forth in the Settlement Agreement.

3. As set forth in the Settlement Agreement, class counsel submitted a separate fee petition [DE# 200], for which the Court will issue a separate order.

4. As set forth in the Settlement Agreement, Defendant shall retain a Settlement Administrator whose fees shall be paid by Defendant and who shall facilitate distribution of the Global Settlement Fund to be established by Defendant. Within ninety (90) days of the date of this Order, the Settlement Administrator shall provide Plaintiffs' counsel Global Settlement Fund checks for the Individual Payments, Service Payments, and subject to Court approval by separate order, payments for Attorneys' Fees and Costs according to the terms and conditions embodied in the parties' Settlement Agreement.

5. Payments from the Global Settlement Fund that are not negotiated within one hundred eighty (180) days of issuance will be null and void and shall be distributed as *cy pres* reversion to the Food Bank of Eastern North Carolina.

6. Each plaintiff class member shall be bound by the terms of the parties' Settlement Agreement, this Order, and the judgment to be entered thereon notwithstanding his or her failure to execute this Agreement or failure to take possession of or negotiate his/her settlement check.

7. The Settlement Agreement is hereby approved in accordance with Section 216 of the Fair Labor Standards Act and shall be consummated in accordance with its terms.

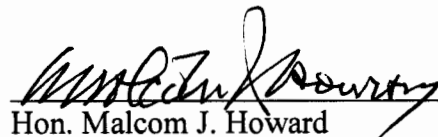
8. Without affecting the finality of this Order of Approval, this Court retains exclusive jurisdiction over the consummation, performance, administration, effectuation, and enforcement of this Order. In addition, without affecting the finality of this Order of Approval, this Court retains jurisdiction over Defendant, the Named Plaintiffs, and each Collective Class

Member for the purpose of enabling any of them to apply to the Court for such further orders and directions as may be necessary or appropriate for the construction and implementation of the terms of the Settlement Agreement and this Order.

9. This action is hereby dismissed in its entirety, on the merits, as against Defendant with prejudice, and without costs to any party except as provided in the Settlement Agreement. This Court intends this Order of Approval to be “final” within the meaning of the Federal Rules of Civil Procedure and the Federal Rules of Appellate Procedure.

Accordingly, except as otherwise set forth in this Order, the Settlement Agreement is hereby APPROVED in its entirety. SO ORDERED.

This 16<sup>th</sup> day of May, 2013.

  
Hon. Malcom J. Howard  
Senior U.S. District Court Judge

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